IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7239 OF 2006

Subhash Chunilal Mehta .. Petitioner

v/s

State of Maharashtra & Ors. .. Respondents

Mr.Amit Shetye h/f Mr.A.B. Borkar for the petitioner.

Mr.C.R. Sonawane, A.G.P. for the respondents.

CORAM : S.B. MHASE &
D.G. KARNIK, JJ.

DATE : 29TH OCTOBER 2007

P.C. :

1. Heard counsel for the parties.

2. By this petition, the petitioner seeks a direction for payment of pension. According to the petitioner, he worked in the government service from 3rd November 1952 to 1st February 1973 when he tendered his resignation. He had completed 20 years of service and therefore he was entitled to the pension.

3. Perusal of the affidavit in reply shows that

there was break in service of the petitioner in between and after excluding the period of break in service and unauthorised unsanctioned leave prior to the resignation, the petitioner had completed only 19 years and 4 months service and had not completed even 20 years service which is a minimum required pensionable service. Further more, it may also be noted that the petitioner had not retired from service on attaining the age of superannuation nor on medical or any other admissible ground nor had he sought voluntary retirement. He simply and unilaterally tendered his resignation by his letter dated 1st February 1973. Rule 46 of the Maharashtra Civil Services (Pension) Rules, 1982 says that the past service of employee shall be forfeited on resignation. The petitioner is not entitled to the pension as his past service stood forfeited on he submitting resignation.

4. We also notice that though the petitioner resigned in the year 1973, he has filed the petition on 18th October 2006, that is after lapse of 23 years. The delay is not at all explained. Counsel for the petitioner submitted that the petitioner had been making representations and therefore had not filed the writ petition. Perusal of affidavit in reply shows that the petitioner had made a representation for the first time

in the year 2004 and not earlier. In any event, the petitioner was not entitled to wait for more than 23 years merely because he had filed some representations. The delay and laches are gross and are not satisfactorily explained. This is one more reason for rejecting the petition.

5. For the reasons aforesaid, the writ petition is rejected.

(D.G. KARNIK, J.) (S.B. MHASE, J.)